

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 16th day of June 1998

B e f o r e

THE HON'BLE MR.JUSTICE CHANDRASHEKARAIH

H.P.NO:23957/97

BETWEEN:

S.Shanmugam, aged about 50 years,
s/o. late Subramani, r/a.No.6,
I Main II cross, Industrial
Workers' Layout, Jarakbande kaval,
Srikanteshwara nagar,
Bangalore-96. ... Petitioner;

(By Sri. K.Srinivas Upadhyaya)

AND:

1. The Commissioner,
Bangalore City Corporation,
J.C.Road, Bangalore-2.

2. The Assistant Revenue Officer,
Mahalakshmiipura Range, Sheshadripuram,
Bangalore-20-

3. Smt.Jayamma, w/o Sri.Narasimhaiah,
aged about 44 years, r/a, No.32-D,
6A cross, New Extension, Jarakban dekaval,
-do- ... Respondents;

4. Smt.Shanthamma, w/o Sri.Nanjappa,
aged about 24 years, r/a.No.32-B,
6A cross rest -do-

5. Sri.B.S.Jayaram, s/o Sri.
Shamanna, Hindu, major, r/a.No.32-C,
6A cross, New Extension, rest -do- ... Respondents;

(Sri.B.V.Muralidhar for R1 and R2;
Sri.K.L.Manjunath for R-3 to R-5)

Writ Petition is filed under Arts.226 and 227 of the Constitution praying to direct the respondents to register katha in respect of the property at No.6, I Main, II cross Industrial Workers' Layout, Jarakbande Kaval, Srikanteshwarnagar, Bangalore-90.

This petition coming on for preliminary hearing in R Group this day the Court made the following.

WP.23957/97

O R D E R

16-6-1998

The petitioner claims to be the owner of the site bearing No.6, at I Main, II cross, Industrial Workers' Layout, Jarakbande Kaval, Srikanteshwaranagar Bangalore-96, having purchased under a registered sale deed dated 24-2-1992. After the said purchase, the petitioner filed an application before the Corporation to effect katha in his favour. On that application the Corporation directed the petitioner to produce certain documents to establish title to the property in question.

2. It is submitted that the petitioner has produced the documents to show that he has purchased the property under a registered sale deed. Thereafter, the Corporation again issued another endorsement intimating that the application of the petitioner for transfer of katha cannot be considered in view of the pendency of the suit. Ultimately, the Corporation has issued one more endorsement stating that certain clarification has been sought for from the BDA and therefore, till the clarification is received the request of the petitioner cannot be

considered for effecting katha. In view of the different endorsements issued by the Corporation, the petitioner has filed this petition.

3. Respondents-3 to 5 also claim to be the owners of the site in question. No doubt, there is a dispute in respect of the title to the property between the petitioner and respondents 3 to 5. It appears civil suit is also pending consideration. When the petitioner filed the application for effecting katha and if it is objected by respondents-3 to 5 and they have also filed applications for effecting katha in their favour, the Corporation ought to have clubbed all the applications for effecting katha and should have passed a common order after affording an opportunity to all the persons interested in the site in question. In the case on hand, no such steps are taken by the Corporation. Before the Civil Court also there is no order restraining the Corporation from considering the applications of either the petitioner or of respondents-3 to 5. When such being the case, it was appropriate for the Corporation to have considered the case of petitioner and respondents-3 to 5 and pass orders for change of katha. If the Corporation finds that in the

proceedings relating to change of katha, ~~in case of dispute~~ for
with issue relating to title who property will be decided by the Civil Court
the Court to decide title to the property, it may
direct the parties to approach the Civil Court for
declaration of title, with liberty to the party to
move the Corporation in the event he succeeds in the
suit. Without following this procedure the
Corporation was not right in issuing the endorsement
as per Annexure-K stating that the Corporation will
consider the application of the petitioner after the
receipt of the clarification received from the BDA.

Accordingly, writ petition is disposed of
with a direction to the Corporation to consider the
applications filed by the petitioner and
respondents-3 to 5 in respect of change of katha in
^{✓ in light of the above observation.} respect of the aforesaid site, after due notice to
all the persons interested as expeditiously as
possible.

Sd/-
JUDGE

Hsf.

